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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,578	12/12/2003	Tomoko Sugito	2038-313	8614

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EXAMINER

HAND, MELANIE JO


ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/733,578	Applicant(s)  SUGITO, TOMOKO	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10, 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Pre-Appeal Brief Request for Review, pages 2 and 3, filed December 27, 2006, with respect to the rejection(s) of claim(s) 2, 3, 5, 9 and 11 under 35 U.S.C. 102 and claims 4 and 10-21 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of applicant's amendment to the claims filed November 27, 2006.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6-9, 12, 13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavon et al (U.S. Patent No. 6,458,110) in view of Sugito (U.S. Patent No. 6,099,515).

With respect to **claim 6**: Lavon teaches a disposable diaper 20 having a longitudinal direction, a transverse direction, a front waist region 22, a rear waist region 24 and a crotch region 26 extending between said front and rear waist regions 22,24, said diaper 20 comprising: a liquid-absorbent core 44 having a body facing upper surface and a lower surface opposite to said upper surface and extending between said front and rear waist regions (Col. 4, lines 9-31); a liquid-pervious first sheet 38 having an upper covering section adapted to cover said upper surface of said core 44 (Figs. 1-3); a liquid-impervious second sheet 42, said core 44 being provided with a cleaved zone extending in said longitudinal direction and extending through a

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thickness of said core 44 (Figs. 1-3); said core 44 comprises absorbent material wrapped in tissue paper, said tissue paper thus defining the upper and lower surfaces of said core, and said tissue paper is different from the liquid-pervious first sheet 38. (Col. 6, lines 59-63)

Lavon does not teach a lower covering section of first sheet 38 adapted to cover said lower surface of said core 44. Sugito teaches an absorbent article having a cleaved absorbent core 4 and a first sheet 2 wherein said first sheet has an upper covering section and a lower covering section adapted to cover a lower surface (i.e. the lower portions of side walls 20) of said core 4. ('515, Fig. 2) Sugito teaches that this arrangement allows liquid to be absorbed by different parts of the core, bypassing potential problems such as gel block ('515, Col. 4, lines 17-21), therefore it would be obvious to one of ordinary skill in the art to modify the article of Lavon such that said first sheet has a lower covering section adapted to cover a lower surface of the core as taught by Sugito to facilitate absorption of liquid by different parts of the core.

The combined teaching of Lavon and Sugito thus teaches a liquid-impervious second sheet 42 lying outside a lower covering section of said first sheet, and an upper covering section of a first sheet that continuously extends downward from said upper surface of said core along a cleaved zone and further extends outward in said transverse direction (see Fig. 2 of Sugito) so as to define a penis pocket extending in said longitudinal direction below said cleaved zone (see Figs 1-4 of Lavon); wherein

said lower covering section of said first sheet extends downward along said cleaved zone of said core ('515, Fig. 2) and further extends outward in said transverse direction so that said lower covering section cooperates with said upper covering section to define said penis pocket ('515, Fig. 2);

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With respect to **claim 7**: The liquid-pervious first sheet of the combined teaching of Lavon and Sugito defines a bottom of said pocket. ('515, Fig. 2)

With respect to **claim 8**: All inner walls of the pocket are defined solely by the liquid-pervious first sheet. ('515, Fig. 2)

With respect to **claim 9**: The bottom of said pocket is in direct contact with, but free of direct attachment to, said liquid-impervious second sheet, as Sugito teaches that sheets 2 and 3 are only attached at the periphery of the absorbent core 4. ('515, Col. 2, lines 33-37)

With respect to **claim 12**: Lavon teaches a disposable diaper 20 having a longitudinal direction, a transverse direction perpendicular to the longitudinal direction, a front waist region 22, a rear waist region 24, and a crotch region 26 extending in the longitudinal direction between said front and rear waist regions 22,24, said diaper 20 comprising: a liquid-absorbent core 44 extending between said front and rear waist regions 22,24, said core 44 having an upper surface adapted to face a wearer's body in use and a lower surface opposite to said upper surface, said core 44 comprising absorbent material wrapped in tissue paper, said tissue paper defining the upper and lower surfaces of said core; a liquid-pervious first sheet 38 different from said tissue paper and covering at least said upper surface of said core 44; a liquid-impervious second sheet 42 located below and covering the lower surface of said core 44; and a slit elongated in said longitudinal direction and extending through an entire thickness of said core 44 to divide at least a front portion of said core into two halves (Figs. 1-4); wherein said first sheet 38 comprises: a pair of first sections each extending inwardly in the transverse direction and covering the upper surface of said core 44 in one of said halves.

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Lavon does not teach that first sheet 38 comprises a pair of second sections each extending from one of the first sections downwardly in a thickness direction of said core 44 and through said slit, or a third section located between the lower surface of said core and the second sheet and connecting said second sections. Sugito teaches an absorbent article having a core 4 and first sheet 2 having a pair of first sections each extending inwardly in the transverse direction and covering the upper surface of said core 4 in one of said halves, and a pair of second sections each extending from one of the first sections downwardly in a thickness direction of said core 4 and through said slit, and a third section located between the lower surface of said core 4 and the second sheet 3 and connecting said second sections, wherein said second sections define inner side walls of a pocket. ('515, Fig. 2) Sugito teaches that this arrangement allows liquid to be absorbed by different parts of the core, bypassing potential problems such as gel block ('515, Col. 4, lines 17-21), therefore it would be obvious to one of ordinary skill in the art to modify the article of Lavon such that said first sheet has a lower covering section adapted to cover a lower surface of the core as taught by Sugito to facilitate absorption of liquid by different parts of the core.

The combined teaching of Lavon and Sugito teaches a pocket adapted to receive therein the wearer's penis ('110, Figs. 1-4; '515, Fig. 2) whereas said third section defines an inner bottom wall of said pocket.

With respect to **claim 13**: The first sheet of the combined teaching of Lavon and Sugito further comprises: a pair of fourth sections each extending inwardly in the transverse direction and covering the lower surface of said core in one of said halves, and a fifth section located between the third section and the second sheet and connecting said fourth sections, wherein said fourth sections define outer side walls of said pocket whereas said fifth section defines an outer

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bottom wall of said pocket.

With respect to **claim 14**: The combined teaching of Lavon and Sugito does not teach a liquid-impervious third sheet positioned above and covering one of said first sections of said first sheet, said liquid-impervious third sheet being adapted to contact the wearer's body in use.

Duncan teaches an absorbent article comprising a liquid-impervious topsheet overlying a liquid permeable layer 4. Since the articles of Lavon and Sugito and Duncan all seek to solve a similar problem in the art, it would be obvious to one of ordinary skill in the art to modify the device of Lavon and Sugito so as to include a liquid-impervious layer functioning as a third sheet overlying a permeable layer as taught by Duncan with a reasonable expectation of success.

With respect to **claim 15**: The slit extends continuously over the crotch region of the combined teaching of Lavon and Sugito and into both said front and rear waist regions. (Col. 4, lines 9-31)

With respect to **claim 16**: The fifth section of said first sheet is in direct contact with, but free of direct attachment to, said second sheet, as Sugito teaches that sheets 2 and 3 are only attached at the periphery of the absorbent core 4. ('515, Col. 2, lines 33-37)

With respect to **claim 17**: The first sheet is directly joined to said second sheet only in said fourth sections and along longitudinal peripheral edges of said core, so that said pocket is movable below said core. Lavon teaches that the first sheet 38 is bonded to the second sheet 42 at least at the periphery of the core (Col. 4, lines 16-20), thus Lavon's teaching and the relevant teaching of Sugito in combination render claim 17 unpatentable

With respect to **claim 18**: The slit defines an opening of said pocket of the combined teaching of Lavon and Sugito, said opening being configured for allowing insertion of the wearer's penis therethrough.

With respect to **claim 19**: The pocket of the combined teaching of Lavon and Sugito has an inverted Ω shape. ('110, Figs. 1-4; '515, Fig. 2)

With respect to **claim 20**: Each of said second sections of said first sheet of the combined teaching of Lavon and Sugito further extends outwardly in the transverse direction away from said slit and covers partially the lower surface of said core. ('515, Fig. 2)

With respect to **claim 21**: Each of said second sections of said first sheet further extends outwardly in the transverse direction away from said slit and covers partially the lower surface of said core; and each of said fourth sections of said first sheet extends inwardly in the transverse direction obliquely from the lower surface of said core to an upper surface of said second sheet, and is spaced from the respective second section by an air gap. ('515, Fig. 2)

Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavon et al (U.S. Patent No. 6,458,110) in view of Sugito (U.S. Patent No. 6,099,515) as applied to claims 6-9, 12, 13 and 15-21 above, and further in view of Duncan (U.S. Patent No. 3,952,745).

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With respect to **claims 10,14**: The combined teaching of Lavon and Sugito does not teach a liquid-impervious third sheet positioned above and covering one of said first sections of said first sheet, said liquid-impervious third sheet being adapted to contact the wearer's body in use.

Duncan teaches an absorbent article comprising a liquid-impervious topsheet overlying a liquid permeable layer 4. Since the articles of Lavon and Sugito and Duncan all seek to solve a similar problem in the art, it would be obvious to one of ordinary skill in the art to modify the device of Lavon and Sugito so as to include a liquid-impervious layer functioning as a third sheet overlying a permeable layer as taught by Duncan with a reasonable expectation of success. ('745, Col. 5, lines 43-51)

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

April 21, 2007

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

